## REMARKS

I. STATUS OF THE CLAIMS

After entry of the present amendment, Claims 1-15, 17-19 are pending in this application. Claims 1-4, 9, 12-15, 17 and 19 have been amended by the present amendment. Claims 16 and 20 have been cancelled without prejudice of disclaimer of the subject matter therein. No new matter has been added by the present amendment.

In the Office Action, claims 5-15 are objected to under 27 CR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim.

Claim 3 is objected for a typographical error in which the final phrase of claim 2 ran into the first phrase of claim 3.

Claims 4 and 19 are rejected under 35 U.S.C. § 112, second paragraph (hereinafter, "Section 112, Par. 2") as being indefinite. Specifically, the Examiner finds the working "in close proximity" to be indefinite and requires removal of the same.

Claims 16 and 20 are rejected under Section 12, Par. 2, as being indefinite for being omnibus type claims.

Claims 1-4, and 17-19 are rejected under 35 U.S.C. § 103(a) (hereinafter, "Section 103(a)") as being unpatentable over Narayanaswamy (U.S. Pat. No. 6,938,069, hereinafter, "'069 patent") in view of Applicant Admitted Prior Art, (hereinafter, "AAPA").

Applicant respectfully traverses all rejections and requests reconsideration.

A. CLAIM OBJECTIONS

Applicant respectfully submits that claims 5-15 should have been treated on the merits because a Preliminary Amendment correcting the claim format was submitted and received by the USPTO on August 14, 2001. A copy of the received Preliminary Amendment, which removes the improper multiple dependent claim format, is herein submitted for the Examiner's reference. Accordingly, it is believed that claims 5-15, wherein claims 9, and 12-15 are currently amended, are allowable and it is requested that the objection to claims 5-15 be withdrawn. However, if any action on the merits received hereafter may reject claims 5-15, it is respectfully requested that it not be treated as a final action since these claims were submitted in proper multiple dependent claim format.

With regard to claim 3, the Examiner is correct in that the final phrase of claim 2 ran into the beginning of claim 3 as a typographical error. Accordingly, claim 3 has been amended to remove this typographical error. Therefore, it is requested that the objection to amended claim 3 be withdrawn.

B. REJECTION UNDER SECTION 112, PAR. 2

Claims 4 and 9 have been amended to remove the phrase "in close proximity" as instructed by Examiner on page 2 of the Office Action. It is therefore respectfully requested that the rejection of claims 4 and 9 under Section 112, Par. 2 be withdrawn.

In addition, claims 16 and 20 are no longer pending in the Application as they were previously canceled in the Preliminary Amendment submitted in August of 2001. Please see attached copy of the Preliminary Amendment received by the USPTO on August 14, 2001. Accordingly, it respectfully requested that the cancellation of claims 16 and 20 be entered.

C. REJECTION UNDER SECTION 103(A), '069 PATENT IN VIEW OF AAPA

Claims 1-4 and 17-19 were rejected under Section 103(a) as being unpatentable over the '069 patent and the AAPA. Independent claim 1 recites the limitation of "a buffer server interconnected with the remote server using a sequential message handshaking protocol" and "wherein the interconnection provides for the communication of messages between the buffer server *and the remote server in steady, timed flows with minimal latency and connection disruptions*". (emphasis added). Claim 1 has also been amended to recite "wherein said buffer server is connected between the computer network and the remote server so as to maximize message throughput".

Independent claim 2 also recites "a buffer server interconnected with said remote server using a sequential message handshaking protocol corresponding to that used by said remote server, the interconnection providing for the communication of messages between said buffer server and said remote server *in steady, timed flows with minimal latency and connection disruptions*" (emphasis added) and has been amended to recite "said buffer server being connected between the computer network and said remote server so as to maximise message throughput".

Independent claim 17 recites "buffering communications" "with that portion of the computer network interfaced with the remote server...so that the communication of messages *with the remote server is provided in steady, timed flows with minimal latency and connection disruptions*" AND "simultaneously buffering communications with that portion of the computer network interfaced with the IM server".

Applicant respectfully traverses Examiner's rejection as explained below.

As explained in M.P.E.P. Section 706.02(j):

> *To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.*

The three above-mentioned criteria must exist at the time the claimed invention was made, according to the text of Section 103(a) itself. The Examiner has not established a prima facie case of obviousness using the '069 patent and the AAPA for at least the reasons stated below.

'069 Patent and AAPA, Claims 1, 2 and 17

'069 Patent

The '069 patent to Narayanaswamy describes an electronic meeting center having a virtual meeting space for holding a meeting, and controls and displays messages having information relevant to the meeting. A dialogue buffer is associated with the meeting space for storing messages for review by participants. ('069 patent, Abstract). In addition, the message stored can be an IM message but is delivered only to the intended participant and is removed from the meeting center when the intended participant is no longer accessing the meeting space. (Col. 5, lines 58-63).

AAPA

The description of background information in the Applicant's specification describes how an SMSC server can connect to the internet and thereby to an external network, using the sequential message handshaking protocol. (Par. 0012-0013). It further describes how by doing so, only one message at a time can be processed by the SMSC, whereby it must receive

confirmation each time that it sends or receives an IM from the server on the external network with which it is communicating. (Par. 0014). The problem with this type of handshaking is that it does not lend itself to communicating messages rapidly with external networks that are unstable or involve an inherent latency, such as the internet. (Par. 0015) Slow communications between an IM server and SMSC server is highly undesirable and detracts form the virtues of instant messaging. (Par. 0016).

Claims 1, 2, and 17

The '069 patent does not teach the specified elements of amended claims 1, 2, and 17 as indicated by the Examiner on pages 3-4 of the Office Action. Contrary to Examiner's assertion, the '069 patent does not have a "buffer server" "interconnected with a remote server" and "also being interconnected with the IM server" as recited by the Applicant's claims and specifications, but rather has a "dialogue buffer" "associated with the meeting space and the meeting and is capable of storing a message for review by the participants" ('069 patent, col. 4, lines 38-40). Such "dialogue buffer" does not describe a "buffer server" as a term understood in the art or in the Applicant's claims. Rather, the "dialogue buffer" of the '069 patent describes what appears to a virtual whiteboard, within what appears to be a virtual meeting-place. It appears to be a conventional memory for display of messages for review by participants.

Neither is there anywhere disclosed in the '069 patent of a "buffer server interconnected with the remote server...wherein the interconnection provides for the communication of messages between the buffer server and the remote server *in steady, timed flows with minimal latency and connection disruptions*". Examiner points to col. 4, lines 22-

40 and Col. 5, 54-63, but these citations are devoid of such limitations recited by the independent claims. At most, in col. 4, there is a reference to "Means 38 for the participants 26 and the coordinator 30 to access the meeting space 34 from remote locations 42 are provided." However, this vague language in no manner teaches that the "buffer server interconnected with the remote server...wherein the interconnection provides for the communication of messages between the buffer server and the remote server in steady, timed flows with minimal latency and connection disruptions". Such claimed interconnection and communication cannot be found in the '069 patent.

Furthermore, neither is there any disclosure in the '069 patent contrary to Examiner's assertion, that the "buffer server also being interconnected with the IM server using a protocol compatible therewith in a manner where message handshaking is not required to be performed sequentially and thus accommodate higher latency and instability problems with the computer network". Again, the same citation is used by the Examiner to disclose this element, but there is no such teaching found in the cited lines. In essence, the two elements of the 1) "buffer server" "interconnected with the remote server" "wherein the interconnection provides for...steady, timed flows with minimal latency and connection disruptions" and at the same time 2) the buffer server also interconnected with the IM server using a protocol" to "accommodate higher latency and instability problems with the computer network" are in no manner taught by the '069 patent.

These elements are not disclosed in the '069 patent and neither are they taught in combination with AAPA. It is agreed that sequential message handshaking protocol is disclosed in the AAPA and has been used between IM servers and remote servers. However, the APAA is devoid of teaching the required elements of claims 1, 2, and 17 namely a "buffer

server" "interconnected with the remote server" "wherein the interconnection provides for...steady, timed flows with minimal latency and connection disruptions" and at the same time the "buffer server also interconnected with the IM server using a protocol compatible therewith in a manner where message handshaking is not required to be performed sequentially and thus accommodate higher latency and instability problems with the computer network".

As mentioned, one of the objects of the claimed invention is to address the problem as described in the AAPA of communicating messages rapidly with external networks that are unstable or involve an inherent latency, such as the internet. Therefore, it is not obvious to combine a reference, '069 patent, which is silent on disclosing a buffer server in addition to its communication protocol with an IM server and a remote server, with the AAPA which discloses slow message communication using message handshaking, to arrive at the Applicant's claimed invention.

As none of the above discussed required elements is disclosed in the '069 patent in combination with the AAPA, there is no showing of a prima facie case of obviousness for failure to teach all elements of the claim. The lack of any one of the required three elements for a rejection under Section 103(a) would make amended claims 1, 2 and 17 allowable over the teachings of the '069 patent and the AAPA.

Therefore, '069 patent in light of AAPA fail to teach or suggest ALL claim limitations as required to establish a prima facie case of obviousness. Accordingly, Applicant respectfully requests withdrawal of the rejection of amended claims 1, 2 and 17 under Section 103(a).

Dependent Claims 3-4 and 18-19

Dependent claims 3-4 and 18-19 include all limitations of their respective base claims 1, 2, and 17. Accordingly, Applicant respectfully submits that claims 3-4 and 18-19 are allowable for at least the same reasons as base claims 1, 2 and 17, and requests withdrawal of the rejection of claims 3-4 and 18-19 under Section 103(a).

Claims 5-15

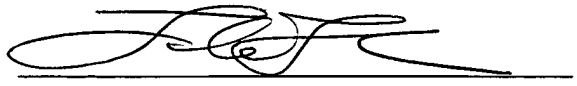
Claims 5-15 are believed to be allowable in light of the '069 patent and the AAPA. In addition to reasons stated above with regard to claims 1 and 2, claims dependent claims 5-15 should also be allowed for the additional limitations they each recite.

## II. CONCLUSION

The above-discussed remarks are believed to place the present Application in condition for allowance. Should the Examiner have any questions regarding the above amendments, the Examiner is requested to telephone Applicant's representative at the number listed below.

Respectfully submitted,

Date: 01/26/2006



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PATENT
Attorney Docket No. 08098.0013
CUSTOMER NUMBER 22,852

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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| In re Application of: | ) | |
| | ) | |
| Inventors: Dennis MENDIOLA et al | ) | Group Art Unit: |
| | ) | |
| Serial No.: Not Yet Assigned | ) | Examiner: |
| | ) | |
| Filed: August 14, 2001 | ) | |
| | ) | |
| For: INSTANT MESSAGING SYSTEM AND METHOD FOR REMOTE NETWORKS USING A SEQUENTIAL MESSAGE HANDSHAKING PROTOCOL | ) | |

**Assistant Commissioner for Patents**
**Washington, DC 20231**

Sir:

**PRELIMINARY AMENDMENT**

Prior to examination, please amend the above-identified application as follows:

**IN THE CLAIMS:**

Please cancel claims 16 and 20.

Please replace now pending claims 5-7 and 9-15 with the following claims 5-7 and 9-15:

5. (Amended) The invention as claimed in claim 1 or 2, wherein said remote server is an SMSC server of a GSM network and said client types connected to the SMSC server have SMS capability that is controlled and managed by said SMSC server to provide for SMS there between and IM between the SMSC server and the IM server.

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6. (Amended) The invention as claimed in claim 1 or 2, wherein said sequential message handshaking protocol is CIMD2.

7. (Amended) The invention as claimed in claim 1 or 2, wherein said computer network interconnecting said IM server and said buffer server is the internet.

9. (Amended) The invention as claimed in claim 1 or 2, wherein the IM server is interconnected to a plurality of remote servers via the computer network, each remote server utilising a sequential message handshaking protocol for transmitting and receiving messages with the IM server, whereby a said buffer server is associated with and dedicated to each remote server.

10. (Amended) The invention as claimed in claim 1 or 2, wherein the message are communicated in streaming data between said buffer server and the remote server in well-defined time increments or cycles or sporadically depending on when the messages become available to send.

11. (Amended) The invention as claimed in claim 1 or 2, wherein the buffer server has sufficient memory to buffer up to 255 instant messages received from the remote server to accommodate latency and instability problems associated with the computer network connection to the IM server.

12. (Amended) The invention as claimed in claim 1 or 2, wherein the buffer server has sufficient memory to buffer up to 255 instant messages received from the communication buffer to accommodate different communication speeds between the buffer server and the remote server.

13. (Amended) The invention as claimed in claim 1 or 2, wherein the IM server is provided with a communication buffer mirrored to the buffer of said buffer server of



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the remote network, and each buffer comprises a circular array to contain the messages currently being processed by the instant messaging system at any one time, and wherein a plurality of statuses are recorded against each message to indicate its particular stage of communication between the IM server and the SMSC server.

14. (Amended) The invention as claimed in claim 1 or 2, wherein the IM server is provided with a communication buffer mirrored to the buffer of said buffer server of the remote network, and each said buffer is provided with synchronization means to reconstruct messages that may have been lost in transit between the buffers as a result of an extended interruption to the computer network linking the same.

15. (Amended) The invention as claimed in claim 1 or 2 claim wherein the IM server is provided with a communication buffer mirrored to the buffer of said buffer server of the remote network, and each buffer comprises a circular array to contain the messages currently being processed by the instant messaging system at any one time, and wherein a plurality of statuses are recorded against each message to indicate its particular stage of communication between the IM server and the SMSC server, and wherein the IM server is provided with a communication buffer mirrored to the buffer of said buffer server of the remote network, and each said buffer is provided with synchronization means to reconstruct messages that may have been lost in transit between the buffers as a result of an extended interruption to the computer network linking the same, and wherein said synchronization means reconstructs messages from said circular array having regard to the statuses of the current messages being processed by the instant messaging system.

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## REMARKS

The above-identified application has been amended to delete the presence of improper multiple dependent claims. No new matter has been introduced by these amendments. An amended form of claims 5-7, and 9-15 is attached for the Examiner's convenience pursuant to new rule 37 C.F.R. §1.21(c)(1)(ii). This paper is not intended to be entered.

The examiner is respectfully requested to consider the above preliminary amendment prior to examination of the application.

If there are any other fees due in connection with the filing of this response, please charge the fees to Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P.

Dated: August 14, 2001

By: David W. Hill
David W. Hill
Reg. No. 28,220

DWH/FPD/gah



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**APPENDIX TO PRELIMINARY AMENDMENT OF AUGUST 14, 2001**

Amendment to the Claims

5. The invention as claimed in [any one of the preceding claims] claim 1 or 2, wherein said remote server is an SMSC server of a GSM network and said client types connected to the SMSC server have SMS capability that is controlled and managed by said SMSC server to provide for SMS there between and IM between the SMSC server and the IM server.

6. The invention as claimed in [any one of the preceding claims] claim 1 or 2, wherein said sequential message handshaking protocol is CIMD2.

7. The invention as claimed in [any one of the preceding claims] claim 1 or 2, wherein said computer network interconnecting said IM server and said buffer server is the internet.

9. The invention as claimed in [any one of the preceding claims] claim 1 or 2, wherein the IM server is interconnected to a plurality of remote servers via the computer network, each remote server utilising a sequential message handshaking protocol for transmitting and receiving messages with the IM server, whereby a said buffer server is associated with and dedicated to each remote server.

10. The invention as claimed in [any one of the preceding claims] claim 1 or 2, wherein the message are communicated in streaming data between said buffer server and the remote server in well-defined time increments or cycles or sporadically depending on when the messages become available to send.

11. The invention as claimed in [any one of the preceding claims] claim 1 or 2, wherein the buffer server has sufficient memory to buffer up to 255 instant messages



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received from the remote server to accommodate latency and instability problems associated with the computer network connection to the IM server.

12. The invention as claimed in [any one of the preceding claims] claim 1 or 2, wherein the buffer server has sufficient memory to buffer up to 255 instant messages received from the communication buffer to accommodate different communication speeds between the buffer server and the remote server.

13. The invention as claimed in [any one of the preceding claims] claim 1 or 2, wherein the IM server is provided with a communication buffer mirrored to the buffer of said buffer server of the remote network, and each buffer comprises a circular array to contain the messages currently being processed by the instant messaging system at any one time, and wherein a plurality of statuses are recorded against each message to indicate its particular stage of communication between the IM server and the SMSC server.

14. The invention as claimed in [any one of the preceding claims] claim 1 or 2, wherein the IM server is provided with a communication buffer mirrored to the buffer of said buffer server of the remote network, and each said buffer is provided with synchronization means to reconstruct messages that may have been lost in transit between the buffers as a result of an extended interruption to the computer network linking the same.

15. The invention as claimed in [claim 14 as dependent on claim 13,] claim 1 or 2, wherein the IM server is provided with a communication buffer mirrored to the buffer of said buffer server of the remote network, and each buffer comprises a circular array to contain the messages currently being processed by the instant messaging system at



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any one time, and wherein a plurality of statuses are recorded against each message to indicate its particular stage of communication between the IM server and the SMSC server, and wherein the IM server is provided with a communication buffer mirrored to the buffer of said buffer server of the remote network, and each said buffer is provided with synchronization means to reconstruct messages that may have been lost in transit between the buffers as a result of an extended interruption to the computer network linking the same, and wherein said synchronization means reconstructs messages from said circular array having regard to the statuses of the current messages being processed by the instant messaging system.